

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE**

DELLWYN MICHELLE

## TURNIPSEED, DDS,

**Plaintiff,**

**V.**

**Civil Action Number: 2:11-cv-2064**

## STATE FARM INSURANCE

**COMPANY.**

**Defendant.**

## NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §1446, Defendant, State Farm Fire and Casualty Company (“State Farm”), improperly identified in the Complaint as State Farm Insurance Company, hereby files this Notice of Removal removing this case from the Circuit Court of Shelby County, Tennessee, Case No. CT-006057-10, where it is currently pending, to the United States District Court for the Western District of Tennessee. This cause is removable pursuant to 28 U.S.C. § 1332, in that Plaintiff’s claims invoke the Court’s diversity jurisdiction and the amount in controversy exceeds the statutorily required \$75,000.00. In support of removal, State Farm respectfully shows the Court as follows:

## INTRODUCTION

1. State Farm is a foreign corporation incorporated in the State of Illinois and whose principal place of business is in Bloomington, Illinois.
2. Plaintiff Dellwyn Michelle Turnipseed, DDS is a resident of the State of Tennessee.
3. Plaintiff's complaint seeks damages in excess of Seventy-Five Thousand Dollars (\$75,000).

4. The United States District Court for the Western District of Tennessee is the federal judicial district embracing the Circuit Court of Shelby County, Tennessee, where this suit was originally filed. Venue is therefore proper under 28 U.S.C. §§ 81(b)(1) and 1441(a).

5. Pursuant 28 U.S.C. §§ 1332 this civil action is removable as it invokes the federal court's diversity jurisdiction. This Court therefore has subject matter jurisdiction over this civil action and removal is proper.

### **PROCEDURAL HISTORY**

6. Dellwyn Michelle Turnipseed, DDS ("Plaintiff") instituted this civil action in the Circuit Court of Shelby County, Tennessee, on December 16, 2010, arising out of State Farm's denial of their claim for benefits on Policy No. 92-EG-3794-5. A true and correct copy of all process and pleadings as served upon State Farm is attached hereto as Exhibit "A" and is incorporated herein by reference.

7. Pursuant to 28 U.S.C. 1446(d) a copy of this Notice of Removal will be filed with the Shelby County Circuit Court, and written notice will be provided to plaintiff along with a copy of this pleading.

### **REMOVAL IS TIMELY FILED UNDER § 1446(b)**

8. "A notice of removal may be filed within thirty days after receipt by the defendant, through service or otherwise, of a copy of an amended pleading, motion, order or other paper from which it may first be ascertained that the case is one which is or has become removable." 28 U.S.C. § 1446

9. The State of Tennessee Department of Commerce and Insurance was served with the summons in this action on December 28, 2010. State Farm received a copy of this action on January 6, 2011. As such, pursuant to 20 U.S.C. § 1446(b), this notice of removal is timely filed since it is filed on or before January 28, 2011.

**WHEREFORE, PREMISES CONSIDERED,** Defendant State Farm, by and through its counsel, desiring to remove this civil action to the United States District Court for the Western District of Tennessee being the district and division for the county in which such civil action is pending, prays that the filing of this Notice of Removal, the giving of written notice thereof to Plaintiff, and the filing of a copy of this Notice of Removal with the clerk of the Circuit Court of Shelby County, Tennessee, shall effect the removal of said civil action to this Honorable Court.

Respectfully submitted this 26<sup>th</sup> day of January, 2011.

THOMASON, HENDRIX, HARVEY  
JOHNSON & MITCHELL, PLLC

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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the above and foregoing has been served upon the following listed person, via U.S. Mail, postage pre-paid, this the 26<sup>th</sup> day of January, 2011:

Robert A. Cox  
Edwin E. Wallis, III  
26 N. 2<sup>nd</sup> Street  
Memphis, TN 38103  
Attorneys for Plaintiff

s/ Jonathan L. May